Subpart X—Taking Marine Mammals Incidental to U.S. Navy Training in the Southern California Range Complex (SOCAL Range Complex)

SOURCE: 74 FR 3909, Jan. 21, 2009, unless otherwise noted.

EFFECTIVE DATE NOTE: 74 FR 3909, Jan. 21, 2009, subpart X was added, effective Jan. 14, 2009 through Jan. 14, 2014.

§ 216.270 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the SOCAL Range Complex (as depicted in Figure ES–1 in the Navy's Final Environmental Impact Statement for the SOCAL Range Complex), which extends southwest from southern California in an approximately 700 by 200 nm rectangle with the seaward corners at 27°30′00″ N. lat.; 127°10′04″ W. long. and 24°00′01″ N. lat.; 125°00′03″ W. long.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities within the designated amounts of use:

(1) The use of the following mid-frequency active sonar (MFAS) sources, high frequency active sonar (HFAS) sources for U.S. Navy anti-submarine warfare (ASW), mine warfare (MIW) training, maintenance, or research, development, testing, and evaluation (RDT&E) in the amounts indicated below (±10 percent):

(i) AN/SQS–53 (hull-mounted active sonar)—up to 9885 hours over the course of 5 years (an average of 1977 hours per year)

(ii) AN/SQS–56 (hull-mounted active sonar)—up to 2470 hours over the course of 5 years (an average of 494 hours per year)

(iii) AN/BQQ–10 (submarine active sonar)—up to 4075 hours over the course of 5 years (an average of 815 hours per year)(an average of 2 pings per hour during training events, 60 pings per hour for maintenance)

(iv) AN/AQS–22 or 13 (active helicopter dipping sonar)—up to 13595 dips over the course of 5 years (an average of 2719 dips per year—10 pings per dip)

(v) SSQ–62 (Directional Command Activated Sonobuoy System (DICASS) sonobuoys)—up to 21275 sonobuoys over the course of 5 years (an average of 4255 sonobuoys per year)

(vi) MK–48 (heavyweight torpedoes)—up to 435 torpedoes over the course of 5 years (an average of 87 torpedoes per year)

(vii) AN/BQQ–15 (submarine navigational sonar)—up to 610 hours over the course of 5 years (an average of 122 hours per year)

(viii) MK–46 (lightweight torpedoes)—up to 420 torpedoes over the course of 5 years (an average of 84 torpedoes per year)

(ix) AN/SLQ–25A NIXIE—up to 1135 hours over the course of 5 years (an average of 227 hours per year)

(x) AN/SSQ–125 (AEER sonar sonobuoy)—up to 540 sonobuoys (total, of EER/IEER and AEER) over the course of 5 years (an average of 108 per year))

(2) The detonation of the underwater explosives identified in paragraph (c)(2)(i) conducted as part of the training exercises identified in paragraph (c)(2)(ii):

(i) Underwater Explosives:

(A) 5'' Naval Gunfire (9.5 lbs)

(B) 76 mm rounds (1.6 lbs)

(C) Maverick (78.5 lbs)

(D) Harpoon (448 lbs)

(E) MK–82 (238 lbs)

(F) MK–83 (574 lbs)

(G) MK–84 (945 lbs)

(H) MK–48 (851 lbs)

(I) Demolition Charges (20 lbs)

(J) AN/SSQ–110A (IEER explosive sonobuoy—5 lbs)

(ii) Training Events:

(A) Surface-to-surface Gunnery Exercises (S–S GUNEX)—up to 2010 exercises over the course of 5 years (an average of 402 per year)

(B) Air-to-surface Missile Exercises (A-S MISSILEX)—up to 250 exercises over the course of 5 years (an average of 50 per year)

(C) Bombing Exercises (BOMBEX)—up to 200 exercises over the course of 5 years (an average of 40 per year)

(D) Sinking Exercises (SINKEX)—up to 10 exercises over the course of 5 years (an average of 2 per year)

(E) Extended Echo Ranging and Improved Extended Echo Ranging (EER/IEER) Systems—up to 15 exercises (total, of EER/IEER and AEER combined) over the course of 5 years (an average of 3 exercises, or 108 sonobuoy deployments, per year).

§ 216.271 Effective dates and definitions.

(a) Regulations are effective January 14, 2009 through January 14, 2014.

(b) The following definitions are utilized in these regulations:

(1) Uncommon Stranding Event (USE)—A stranding event that takes place during an integrated, coordinated, or major training exercise (MTE) and involves any one of the following:

(i) Two or more individuals of any cetacean species (not including mother/calf pairs, unless of species of concern listed in § 216.271(b)(1)(ii) found dead or live on shore within a two day period and occurring within 30 miles of one another.

(ii) A single individual or mother/calf pair of any of the following marine mammals of concern: Beaked whale of any species, dwarf or pygmy sperm whales, short-finned pilot whales, humpback whales, sperm whales, blue whales, fin whales, or sei whales.

(iii) A group of 2 or more cetaceans of any species exhibiting indicators of distress as defined in the SOCAL Range Complex Stranding Response Plan.

(2) Shutdown—The cessation of MFAS/HFAS operation or detonation of explosives within 14 nm of any live, in the water, animal involved in a USE.

§ 216.272 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 216.277, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 216.270(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The activities identified in § 216.270(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 216.270(c) is limited to the following species, by the indicated method of take and the indicated number of times:

(1) Level B Harassment (±10 percent of the number of takes indicated below):

(i) Mysticetes:

(A) Humpback whale (*Megaptera novaeangliae*)—110 (an average of 22 annually)

(B) Fin whale (*Balaenoptera physalus*)—870 (an average of 174 annually)

(C) Blue whale (*Balaenoptera musculus*)—3085 (an average of 617 annually)

(D) Minke whale (*Balaenoptera acutorostrata*)—665 (an average of 133 annually)

(E) Gray whale (*Eschrichtius robustus*)—27340 (an average of 5468 annually)

(ii) Odontocetes:

(A) Sperm whales (*Physeter macrocephalus*)—775 (an average of 155 annually)

(B) Pygmy sperm whales (*Kogia breviceps*)—830 (an average of 166 annually)

(C) Dwarf sperm whale (*Kogia sima*)—100 (an average of 20 annually)

(D) Mesoplodont beaked whales (Blainville's, Hubb's, Perrin's, pygmy, and ginkgo-toothed) (*Mesoplodon densirostris, M. carlhubbsi, M. perrini, M. peruvianus, M. ginkgodens*)—690 (an average of 138 annually)

(E) Cuvier's beaked whales (*Ziphius cavirostris*)—2175 (an average of 435 annually)